



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: State Board of Health

- ☒ Preproposal Statement of Inquiry was filed as WSR 07-21-143 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _ ; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR
☐ Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-282-006 Vibrio parahaemolyticus control plan

Hearing location(s): Rosario Resort
1400 Rosario Road
Eastsound, WA 98245

Date: 05/14/2008

Time: 11:30 a.m.

Submit written comments to:

Name: Jessie DeLoach

Address: Dept of Health

Office of Shellfish and Water Protection

PO Box 47824

Olympia WA 98504-7824

Website: <http://www3.doh.wa.gov/policyreview/>

fax 360.236.2257

by (date) 05/14/2008

Assistance for persons with disabilities: Contact

Jan Jacobs by 05/07/2008

TTY (800) 833-6388 or () 711

Date of intended adoption: 05/14/2008

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of the proposal is to protect public health by establishing a state-specific control plan to reduce the incidence of Vibrio parahaemolyticus-associated illness (vibriosis). The control plan consists of time-to-temperature controls, training, illness response, record-keeping requirements, and modified Hazard Analysis Critical Control Point plans.

Reasons supporting proposal:

In 2006 there was an unprecedented number of vibriosis cases involving Washington shellfish. The State Board of Health adopted modifications to the existing Vibrio parahaemolyticus Control Plan as an emergency measure for the summer months of 2007 to better protect shellfish consumers from vibriosis. The permanent rule is needed to establish ongoing state-specific control measures.

Statutory authority for adoption:

RCW 69.30

Statute being implemented:

RCW 69.30

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

DATE

3/31/08

NAME (type or print)

Craig McLaughlin

SIGNATURE

TITLE

Executive Director

CODE REVISER USE ONLYCODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

TIME

WSR

3/11

08-08-087

AM

PM

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

none

Name of proponent: (person or organization) State Board of Health

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jessie DeLoach	111 Israel Rd SE, Tumwater, WA	360.236.3302
Implementation..... Jessie DeLoach	111 Israel Rd SE, Tumwater, WA	360.236.3302
Enforcement..... Jessie DeLoach	111 Israel Rd SE, Tumwater, WA	360.236.3302

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Jessie DeLoach

Address: Dept of Health

PO Box 47824

Olympia, WA 98504

phone 360.236.3302

fax 360.236.2257

e-mail jessie.deloach@doh.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Jessie DeLoach

Address: Dept of Health

PO Box 47824

Olympia, WA 98504

phone 360.236.3302

fax 360.236.2257

e-mail jessie.deloach@doh.wa.gov

☐ No: Please explain:

NEW SECTION

WAC 246-282-006 Washington state *Vibrio parahaemolyticus* control plan. (1) The Washington state *Vibrio parahaemolyticus* control plan, also known as the control plan, establishes harvest and transport requirements for oysters intended for raw consumption during the months of May through September. This section does not apply to shucked oyster meats labeled "for cooking only." The requirements of this section are in addition to Chapter VIII of the 2005 National Shellfish Sanitation Program Model Ordinance (NSSP), Requirements for Harvesters, .03 Shellfish Temperature, Control Option 2; and consists of:

- (a) Time-to-temperature controls based on the growing area and month of the year;
- (b) Harvest record requirements;
- (c) *Vibrio* illness response requirements;
- (d) Training requirements; and
- (e) Hazard Analysis Critical Control Point (HACCP) plan and harvest checklist requirements.

(2) All Puget Sound growing areas, including the Strait of Juan de Fuca, are subject to the requirements of this section. Growing areas in Grays Harbor and Willapa Bay where oysters have been epidemiologically associated (linked) as the source of any *Vibrio parahaemolyticus*-associated illness are also subject to the requirements of this section.

(3) The department may grant an exemption to the control plan for Puget Sound growing areas, including the Strait of Juan de Fuca, where there has been no epidemiologically associated (linked) *Vibrio parahaemolyticus*-associated illness if the licensed harvester or dealer can demonstrate safe and effective harvest and transportation methods, as developed in a written agreement.

(4) Time-to-temperature controls are:

**Table 1
Puget Sound Growing Areas
(including the Strait of Juan de Fuca):**

Months of Control	Time-to-Temperature Control
May	Twelve hours
June and September	Five hours
July and August	Four hours

**Table 2
Coastal Growing Areas:**

Months of Control	Time-to-Temperature Control
July and August	Ten hours

(5) Licensed dealers and harvesters shall maintain harvest records showing the time of harvest to assure compliance with the control plan. The harvest times begin as follows:

(a) Intertidal (exposed) harvest - Time must begin after the first oysters to be harvested are exposed to the air by the receding tide.

(b) Submerged harvest - Time must begin after the first oysters harvested are exposed to the air and have been placed onto a conveyance, such as a barge or boat. Submerged harvest includes dredge harvesting or retrieval of harvest tubs, bags, baskets, or other containers of oysters previously filled which have been under water for a minimum of one hour for coastal areas and four hours for Puget Sound growing areas.

(6) In the event of two sporadic *Vibrio parahaemolyticus*-associated illnesses within thirty days where oysters from a single growing area are epidemiologically associated (linked) as the source, all licensed harvesters and dealers in the implicated growing area shall reduce the time-to-temperature control by one hour. The implicated growing area shall remain under the reduced time-to-temperature control throughout the control months for that area as defined in Table 1 or 2 of subsection (4) of this section.

(7) In the event of two additional sporadic *Vibrio parahaemolyticus*-associated illnesses within thirty days under the one hour reduced time-to-temperature control where oysters from a single growing area are epidemiologically associated (linked) as the source, the growing area shall be closed to harvest and shipment of oysters intended for raw consumption throughout the control months as defined in Table 1 or 2 of subsection (4) of this section. If the two additional *Vibrio parahaemolyticus*-associated illnesses are attributed to the same licensed harvester or dealer as the first two illnesses, the department shall conduct an investigation in accordance with the requirements as stated in the 2005 NSSP, Chapter II, Risk Assessment and Risk Management, to determine if the illnesses resulted from dealer practices or the growing area.

(8) An exemption to closure identified in subsection (7) of this section may be granted if the licensed harvester or dealer can demonstrate to the department, as developed in a written agreement, that an additional one hour reduction in time-to-temperature controls can be successfully implemented. If approved, the licensed harvester or dealer shall remain under the reduced time-to-temperature control throughout the control months for that area as defined in Table 1 or 2 of subsection (4) of this section.

(9) If the required time-to-temperature control period is not met, the licensed harvester or dealer shall either:

(a) Destroy the oysters; or

(b) Remove all oysters from containers, disperse them within the original growing area, and allow a minimum of twenty-four hours for purging before reharvesting.

(10) In the event of a *Vibrio parahaemolyticus*-associated illness outbreak where oysters from a particular growing area are epidemiologically associated (linked) as the source, the requirements as stated in the 2005 NSSP, Chapter II, Risk Assessment and Risk Management, shall apply.

(11) All licensed harvesters and dealers shall complete department-approved training specific to the control plan prior to harvesting or shipping oysters intended for raw consumption during the months of May through September. Licensed harvesters and dealers who complete the training shall provide the training to those responsible for the on-site management of harvest activities for their operation.

(12) Following completion of the training required in subsection (11) of this section, all licensed harvesters intending to harvest oysters intended for raw consumption from May through September shall develop a harvest plan and checklist that defines the harvest protocols that will be employed to assure oysters are placed under temperature control as defined in Table 1 or 2 of subsection (4) of this section, and subsection (6) of this section. Licensed dealers (other than harvesters) shall amend their Hazard Analysis Critical Control Point (HACCP) plans to define what harvest protocols will be employed to assure oysters are placed under temperature control as defined in Table 1 or 2 of subsection (4) of this section, and subsection (6) of this section.